

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

MICHAEL PRENDERGAST

Plaintiff,

vs.

No. CIV. 07-1265 CEG/LFG

**FUNDAMENTAL LONG TERM CARE
HOLDINGS, LLC, FUNDAMENTAL
ADMINISTRATIVE SERVICES, LLC,
FUNDAMENTAL CLINICAL CONSULTING,
LLC, THI OF BALTIMORE, INC., THI OF
NEW MEXICO, LLC, THI OF NEW MEXICO
AT VALLE NORTE, LLC.**

Defendants.

**ORDER ON JOINT MOTION FOR INDICATIVE RULING BY DISTRICT
COURT AS TO MOTION FOR VACATUR PURSUANT TO RULE 60**

This civil action is on appeal. On March 26, 2010, the parties filed a Joint Motion For Indicative Ruling By District Court As To Motion For Vacatur Pursuant To Rule 60, requesting this Court's view of a possible request to vacate its Memorandum Opinion and Order on Defendants' Motion for Summary Judgment Re: Single Employer Status dated August 13, 2009 (Dkt. 203) and that portion of the final judgment entered on September 28, 2009 referencing with regard to a finding of an "integrated enterprise" (Dkt. 306) as a condition of settlement.

It is now ORDERED: that this Court has no objection to vacating its Memorandum Opinion and Order on Defendants' Motion for Summary Judgment Re: Single Employer Status dated August 13, 2009 (Dkt. 203) and that portion of the final

judgment entered on September 28, 2009 referencing with regard to a finding of an “integrated enterprise” (Dkt. 306), upon a joint motion made after remand of this matter.



HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE

Jointly submitted by:

MOODY & WARNER PC

By: /s/ Whitney Warner, 3/26/10
WHITNEY WARNER
JULIE FRITSCH
4169 Montgomery Blvd. NE
Albuquerque, NM 87109-6742
(505) 944-0033
Attorneys for Plaintiff

THE SIMONS FIRM, LLP

By: /s/ Faith Kalman Reyes, 3/26/10
FAITH KALMAN REYES
P.O. Box 5333
Santa Fe, NM 87502
(505) 988-5600
Attorneys for Defendants